IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

MFA.No. 308 of 2001

OPMV.1525/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, OTTAPALAM
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APPELLANT/PETITIONER:

SYED ALAVI, AGED 30 YEARS,
S/O KUNHIMARAKKAR, KUNDUTHODI
HOUSE, KEEZHUMURI P.O.,
PULASSERY (VIA), PALAKKAD DIST.

BY ADV. SRI.S.SANTHOSH

RESPONDENTS/RESPONDENTS:

1. SASIKUMAR, AGED 29 YEARS, S/O VELLA,
KARIKKULAM VEEDU, THIRUVAYHIYODE P.O.,
AYILUR, NENMARA (VIA), PALAKKAD DIST.

2. NAZAR, AGE NOT KNOWN, S/O HUSSAIN,
AL-AMEEN COLONY, BYE PASS ROAD,
UKKADAM, COIMBATORE, TAMILNADU (DELETED).

3. NEW INDIA ASSURANCE CO. LTD.,
I FLOOR, STATE BANK OF MYSORE BUILDING,
44-47, OPPANAKKARA STREET,
COIMBATORE, TAMIL NADU.

R3 BY ADV. SRI.KKM.SHERIF

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

M.F.A.No. 308 of 2001

JUDGMENT

Koshy, J.

The appellant/petitioner met with an accident, by which, he suffered deep wounds and lacerated injuries. According to the claimant, the accident occurred due to the negligence of the first respondent, driver of the vehicle owned by the second respondent and insured by the third respondent. The Tribunal found those issues in favour of the claimant, but, awarded only an amount of Rs.26,556/- with interest at 12% per annum against the claim of Rs.2,50,000/-. Treatment certificate was produced as Exhibits A6. The doctor was examined as PW1 to show that the claimant was suffering from reactive depression. It is the contention of the claimant that the Tribunal, without any reason, did not accept that it was due to the accident. It is true that PW1,

the doctor, stated that the patient is suffering from reactive depression and it is due to the accident. The Tribunal reimbursed the medical expenses and granted compensation for pain and sufferings, etc. Considering the evidence of PW1, we are of the opinion that at least the reactive depression was accelerated due to the accident. Taking into account all these aspects, the appellant is entitled to Rupees five thousand more over and above the amount awarded for disability. The above amount of Rupees five thousand shall be deposited by the Insurance Company with 8% interest from the date of application till date of deposit. On deposit of the amount, the appellant is allowed to withdraw the same.

The appeal is allowed in part.

(J.B.Koshy, Judge)

5th June, 2007

(K.P.Balachandran, Judge)

tkv

J.B.Koshy & K.P.Balachandran, JJ.

M.F.A.No.308 of 2001

JUDGMENT

5th June, 2007